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401 N. Lake Street
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In re Application of:
LYE, Jason, et al. : COMMUNICATION
U.S. Application No.: 10/581,404 :
PCT No.: PCT/US2004/042461 :
International Filing Date: 22 December 2004 :
Priority Date: 16 December 2003 :
Attorney's Docket No.: 19611.1 :
For: MICROBIAL DETECTION AND
QUANTIFICATION :
:

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371.

BACKGROUND

On 22 December 2004, applicants filed international application PCT/US2004/042461. The international application claimed a priority date of 16 December 2003, and it designated the United States. Payment of the basic national fee in the United States was due within thirty months of the priority date, i.e. 16 June 2006.

On 01 June 2006, a transmittal letter, with accompanying materials, was filed seeking entry into the U.S. national stage for PCT/US2004/042461. This submission (filed by different attorneys than those named above) was assigned U.S. application number 10/581,404.

On 09 June 2006, above named counsel filed a transmittal letter seeking entry into the U.S. national stage for this same international application, PCT/US2004/042461. This submission was accompanied by, among other materials, payment of the basic national fee and a "Combined Declaration And Power Of Attorney" executed by the applicant/inventors herein which appointed the attorneys associated with Customer Number 23556 to prosecute the application. This submission was initially assigned U.S. application number 10/582,262, although this application number was not entered into the USPTO's PALM system.

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage under 35 U.S.C. 371 have been submitted for international application PCT/US2004/042461 (U.S. application numbers 10/581,404 and 10/582,262). The end result for an international application designating the United States of America is a single U.S. national stage application. Therefore, the submission of two sets of national stage papers to enter the United States was improper.

The documents filed by on 01 June 2006 and assigned application number 10/581,404 were the first of the two filings to be processed by the USPTO, with such U.S. application file being associated with the international application in the USPTO's PALM system. Accordingly, U.S. application number 10/581,404 is the application file that will continue to be processed as the national stage of PCT/US2004/042461. The national stage materials filed on 09 June 2006 and originally assigned U.S. application number 10/582,262 have been placed in application file 10/581,404.

Because the applicant/inventors have appointed the attorneys associated with Customer Number 23556 to prosecute the present national stage application, all future correspondence with respect to the U.S. national stage of PCT/US2004/042641 will be directed solely to the correspondence address associated with this Customer Number (listed above).

It is noted that the "Combined Declaration And Power Of Attorney" filed herein on 09 June 2006 was defective in that it appears to be a compilation of more than a single declaration (the declaration document includes two copies of "Page 2 of 3," executed by different inventors). Such compilation is impermissible (see MPEP § 201.03: "Where individual declarations are executed, they must be submitted as individual declarations rather than combined into one declaration"). Accordingly, a declaration in compliance with 37 CFR 1.497 is still required.

CONCLUSION

U.S. Application number 10/581,404 will be processed as the U.S. national stage of PCT/US2004/042641. All further correspondence with respect to this national stage application should reference U.S. application number 10/581,404 (U.S. application number 10/582,262 will be discontinued).

All further correspondence herein will be directed solely to the attorneys associated with Customer Number 23556 at the correspondence address associated with such Customer Number; the attorneys who filed the separate set of national stage papers on 01 June 2006 have been informed that they will be receiving no future correspondence herein.

The present application (10/581,404) is being forwarded to the National Stage Processing Branch of the Office of PCT Operations for further processing in accord with this decision, including the mailing of a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an acceptable (i.e., non-compiled) declaration in compliance with 37 CFR 1.497 and the surcharge for late-filing of the declaration.



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Jason W. Johnson
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Dear Mr. Johnson:

On 01 June 2006, you filed papers requesting entry into the U.S. national phase for international application PCT/US2004/042461, entitled MICROBIAL DETECTION AND QUANTIFICATION. The inventors are identified as Jason LYE, et al., and your attorney docket number is KCX959PCTUS196111. These papers were assigned U.S. application number 10/581,404.

Different attorneys also filed papers requesting entry into the U.S. national phase for international application PCT/US2004/042461. The papers filed by such attorneys included a Power of Attorney executed by the applicant/inventors appointing these attorneys to represent them before the USPTO with respect to this application.

There can only be a single U.S. national stage application for a given international application. Accordingly, since the applicant/inventors have appointed different attorneys to prosecute the U.S. national phase for international application PCT/US2004/042461 (U.S. application number 10/581,404), no further communications with respect to this application will be mailed to you.

Our records indicate that you submitted a fee payment of \$900 with your 01 June 2006 submission. This fee payment will be refunded to Deposit Account No. 04-1403.

RLR

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